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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

NAI1P262/01.205.01

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on _____

Signature _____

Typed or printed name Erica L. Farlow

Application Number

10/027,615

Filed

10/19/2001

First Named Inventor

S. Kadam et al.

Art Unit

2131

Examiner

Abrishamkar, K.

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.☐ assignee of record of the entire interest.
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)☒ attorney or agent of record. 41,429
Registration number _____☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 _____

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Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.

☐ *Total of _____ forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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REMARKS

The Examiner has rejected Claims 1, 8 and 15 under 35 U.S.C. 103(a) as being unpatentable over Yinger et al. (U.S. Patent No. 5,960,204) in view of Lucas et al. (U.S. Patent No. 6,865,737) in further view of Cheng et al. (U.S. Patent No. 6,151,643). Applicant respectfully disagrees with such rejection.

In the Examiner's response to applicant's arguments in the Office Action dated 12/8/2005, and with respect to applicant's claimed "recovering a set of user credentials that is associated with sufficient privileges to run the installation program from the software installation package" and "wherein an error message is displayed if none of the plurality of sets of user credentials are associated with sufficient privileges to run the installation program from the software installation package" (see this or similar, but not identical language in each of the independent claims), the Examiner has again argued that "Yinger teaches that if a user is not authorized to install the software (lack of sufficient privileges), the server returns an error message (column 6, lines 17-23)" and that "Cheng discloses that the user credentials include a user ID (user name) and a password (column 7, lines 5-25)."

As argued in applicant's Amendment dated 6/3/2005 on page 7, paragraph 4, Yinger only discloses checking a group level and then a public level to determine at each level if the user has sufficient privileges in either level (see Yinger Col. 10, line 64-Col. 11 line, 10). As the Examiner admits, however, Yinger teaches that if a user is not authorized to install the software (lack of sufficient privileges), the server returns an error message (column 6, lines 17-23). Applicant respectfully asserts that such teaching in Yinger only relates to checking privileges of "the user requesting the application module." Applicant, on the other hand, claims that "if the current user does not have sufficient privileges, recovering a set of user credentials that is associated with sufficient privileges" (emphasis added). Thus, while Yinger only returns an error when a user requesting an application module does not have sufficient privileges, applicant claims recovering a set of user credentials with sufficient privileges if the current user does not

have sufficient privileges and displaying “an error message...if none of the plurality of sets of user credentials are associated with sufficient privileges” (emphasis added). In this way, sufficient privileges may be recovered even if the current user does not have sufficient privileges and an error message is displayed after a plurality of sets of user credentials are checked and found not to be sufficient.

Furthermore, applicant claims recovering “a set of user credentials...from the installation package” (emphasis added). Applicant respectfully asserts that Yinger only teaches “check[ing] the user information file 240 to determine 345 whether the user requesting the application module is authorized to install the application module” (Col. 6, lines 14-16). Applicant notes that, as shown in Figure 2 in Yinger, the user information file is simply stored on the server 110 and is not “from the installation package,” as claimed by applicant.

Applicant also respectfully asserts that Lucas fails to meet applicant’s aforementioned claim language for substantially the reasons argued in applicant’s Amendment dated 6/3/2005 starting on page 8, paragraph 2.

In addition, in the Examiner’s response to applicant’s arguments in the Office Action dated 12/8/2005, and with respect to applicant’s claimed technique “wherein the software installation package includes a plurality of sets of user credentials” (see all of the independent claims), the Examiner has failed to specifically respond to applicant’s arguments.

Thus, applicant again respectfully asserts that, as argued starting on page 9, paragraphs 1-2 of the Amendment dated 6/3/2005, the installation package, as claimed by applicant, distinguishes Lucas by including, in itself, a plurality of sets of user credentials to be utilized for authentication. Nowhere in Lucas is there any teaching or even suggestion of including in a software installation package a plurality of sets of user credentials, in the context claimed by applicant.

Still yet, with respect to applicant's claimed technique "wherein the plurality of sets of user credentials each include a user name and an associated password," the Examiner has argued that Cheng discloses such in Col. 7, lines 5-25. Applicant respectfully asserts that such excerpt in Cheng only generally discloses that "the user logs in 201 to the service provider computer...providing a user ID, [and] a password." Clearly, a user logging in to a computer does not meet applicant's specific claim language when read in context, namely that "the software installation package includes a plurality of sets of user credentials...each includ[ing] a user name and an associated password" (see each of the independent claims). Thus, in Cheng only the user himself utilizes the user name and password whereas applicant claims that the software installation package includes such.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir.1991).

Applicant respectfully asserts that at least the third element of the *prima facie* case of obviousness has not been met, since the prior art references, when combined, fail to teach or suggest all of the claim limitations, as noted above. Thus, a notice of allowance or a specific prior art showing of all of applicant's claim limitations, in combination with the remaining claim elements, is respectfully requested.

Thus, all of the independent claims are deemed allowable. Moreover, the remaining dependent claims are further deemed allowable, in view of their dependence on such independent claims.